

Kennecott asks the Appeals Board of the Utah Labor Commission to review Administrative Law Judge La Jeunesse's award of benefits to S. H. under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Appeals Board exercises jurisdiction over this motion for review pursuant to Utah Code Annotated §63-46b-12 and §34A-2-801(3).

BACKGROUND

In 2002, Ms. H. filed a workers' compensation claim (Case No. 02-0802) for injuries to her neck, left shoulder and left arm allegedly caused by driving truck for Kennecott. Kennecott denied liability. After evidentiary proceedings, Judge La Jeunesse found that Ms. H.'s work at Kennecott was the cause of her injuries. The Labor Commission subsequently affirmed that award. Kennecott then filed a motion to reopen the claim on the grounds Ms. H. and her chiropractor had withheld information about Ms. H.'s involvement in an earlier traffic accident. Kennecott argued it was this previous traffic accident, rather than her work at Kennecott, that caused Ms. H.'s injuries. Judge La Jeunesse denied Kennecott's request to reopen Ms. H.'s claim. Kennecott then sought Appeals Board review of the matter. On May 26, 2006, the Appeals Board granted Kennecott's request to reopen Ms. H.'s claim for further evidentiary proceedings.

While the foregoing events transpired in Case No. 02-0802, Ms. H. filed a second claim (Case No. 04-0863), which is the subject of this proceeding. This second claim sought additional benefits from Kennecott for Ms. H.'s alleged work-related injuries. Judge La Jeunesse concluded that, because the underlying compensability of Ms. H.'s injuries had already been established in Case No. 02-0802, Kennecott was bound by the prior finding that Ms. H.'s injuries were, in fact, work related and compensable. Judge La Jeunesse awarded the additional benefits requested by Ms. H. in this case, and Kennecott filed a timely motion for Appeals Board review.

DISCUSSION

As noted above, the Appeals Board has already reopened Ms. H.'s claim in Case No. 02-0802 for further evidentiary proceedings to determine whether Ms. H.'s injuries are work-related and compensable. Ms. H.'s claim in this Case No. 04-0863 arises out of the same fact situation as her first claim. Consequently, the determination of compensability that will be reached in Case No. 02-0803 will apply with equal force to the underlying compensability of this claim. The Appeals Board therefore sets aside Judge La Jeunesse's decision in this case and remands this matter to Judge La Jeunesse for further proceedings consistent with the Appeals Board's directive in Case No. 02-0803.

ORDER

The Appeals Board grants Kennecott's motion for review, sets aside Judge La Jeunesse's decision, and remands this matter to Judge La Jeunesse for further proceedings consistent with this decision. It is so ordered.

Dated this 13th day of June, 2006.

Colleen S. Colton, Chair

Joseph E. Hatch

Jathan Janove¹

¹ Due to Patricia Drawe's inability to participate in this matter, Jathan Janove has been selected to serve as a member of the Appeals Board pursuant to § 34A-1-303 of the Utah Labor Commission Act.